IN THE HIGH COURT OF JUDICATURE
ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE MR JUSTICE J.CHELAMESWAR
and
THE HON'BLE MR JUSTICE D.APPA RAO

WRIT PETITION NO :14207 & 22866 of 2006

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Dated: 9th November 2006.

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WRIT PETITION NO :14207 of 2006

Between:
M/s. Ganapati Industrial (P) Limited, Raipur.

..... PETITIONER

AND

Assistant Commissioner (CT) Int. & LTU, Warangal Division, Warangal and others.

.....RESPONDENTS

WRIT PETITION NO :22866 of 2006

Between:
M/s. Ganapati Industrial (P) Limited, Raipur.

..... PETITIONER

AND

The Singareni Collories Co. Ltd., Kothagudem,
Khamman District and others.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE J.CHELAMESWAR
AND
THE HON'BLE SRI JUSTICE D.APPA RAO

W.P.NOs.14207 & 22866 OF 2006

ORAL COMMON ORDER:
(Per the Hon'ble Sri Justice J.Chelameswar)

The petitioner in these two writ petitions is the same; a private limited company carrying on business in manufacturing and marketing of iron and steel products with its factory located at Raipur in the State of Chhattisgarh and is also a dealer registered on the rolls of the 3rd respondent under the relevant sales tax laws of the State of Chhattisgarh and under the C.S.T. Act.

The petitioner entered into an agreement with the 2nd respondent for supply of certain material (the details of which may not be necessary for the present purpose) and said material, in fact, was supplied to the 2nd respondent. The petitioner claimed that the said supplies are not amenable to the tax under the A.P.G.S.T. Act as the same were made pursuant to an interstate sale of goods. However, the 1st respondent entertained an

opinion that the petitioner camouflaged the transactions as interstate sale transactions, while, in fact, they were transactions of sale within the State of Andhra Pradesh. On such a suspicion, the 1st respondent by its proceeding dated 21-06-2006, directed the 2nd respondent-corporation not to make payment of monies due to the petitioner towards the sale price of the material supplied by it to the

2nd respondent, pending further orders by the

1st respondent. Challenging the said communication of the 1st respondent, the petitioner approached this Court by way of W.P.No.14207 of 2006. For the reasons recorded on

20-07-2006, this Court directed that the proceedings of the 1st respondent dated 21-06-2006, be kept under suspension, subject to the condition of the 2nd respondent retaining an amount of Rs.30,13,537-00, while settling the bills of the petitioner.

Admittedly, in compliance with the abovementioned order of this Court, the 2nd respondent detained the abovementioned amount from out of the monies due and payable to the petitioner. Hence, the second writ petition,being W.P.No.22866 of 2006 with the prayer as follows:

> " For the reasons stated in the accompanying affidavit the petitioner herein prays that this Hon'ble Court may be pleased to issue a writ or order or

direction particularly one in thenature of Writ of Mandamus directing the first respondent to release the amount of Rs.30,13,537/- withheld by it in pursuance of the orders of this Hon'ble Court in Writ Petition No.14207 of 2006, dated 20-07-2006 or to pass such other or further orders as this Hon'ble Court deem fit and proper in the circumstances of the case."

Admittedly, the enquiry of the Revenue into the sale transactions between the petitioner and the 2nd respondent, came to a conclusion and according to the Revenue a part of the turnover of the petitioner is liable for tax under the A.P.G.S.T. Act, but not the entire amount due from the 2nd respondent to the petitioner. The Revenue, therefore, came to the conclusion that the petitioner is liable to pay tax of an amount of Rs.3,58,086/- and an equal amount of penalty by the proceeding dated 20-09-2006 of the Assistant Commissioner (CT) Int. & LTU, Warangal Division, Warangal.

Heard the learned counsel for the petitioner, the learned Government Pleader for Commercial Tax appearing for the Revenue and the learned Standing Counsel for the 2nd respondent-Singareni Collories Company Limited.

In view of the proceedings dated 20-09-2006, we see no reason to permit the 2nd respondent-Singareni Collories Company Limited, to retain the monies of the

petitioner any further. We, therefore, direct the 2nd respondent to make the payment of monies detained pursuant to the orders of this Court referred to earlier, within a period of three weeks from today, without prejudice to the rights of the petitioner to challenge the correctness of the proceedings of the 1st respondent dated 21-06-2006, referred to earlier, and also the authority of the respondents to collect the legal demand of tax, in accordance with law.

Accordingly, with the above direction, both the writ petitions are disposed of. In the circumstances, there shall be no order as to costs.

J.Chelameswar, J

D.Appa Rao, J

Note:
Issue copy by tomorrow.
(bo)
mrk
9th November 2006